

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

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IN RE: ASHLEY MADISON CUSTOMER DATA)	
SECURITY BREACH LITIGATION)	
)	MDL No. 2669
This Document Relates to:)	
)	4:15-MD-2669-JAR
ALL CASES)	
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MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT

Plaintiffs in the above-captioned action, by and through their attorneys, hereby move pursuant to Rule 23 of the Federal Rules of Civil Procedure for entry of an Order: *(i)* certifying the Class as a Settlement Class; *(ii)* appointing the Representative Plaintiffs as Class Plaintiffs and the law firms of The Driscoll Firm, P.C., 211 N. Broadway, 40th Floor, St. Louis, Missouri 63102; Heninger Garrison Davis, LLC, 2224 1st Avenue North, Birmingham, Alabama 35203 and Dowd & Dowd, P.C., 211 North Broadway, Suite 4050, St. Louis, Missouri 63102 as Class Counsel; *(iii)* granting preliminary approval of the proposed class action settlement (“Stipulation of Settlement”); *(iv)* scheduling a fairness hearing (“Final Approval Hearing”), and establishing all related deadlines; *(v)* directing that notice be provided to the Class in accordance with the Notice Program; and *(vi)* entering an Order preliminarily enjoining Class Members who have not opted out and other persons from pursuing actions that assert claims based on or relating to the claims to be released pursuant to the Stipulation of Settlement.¹ Defendants do not oppose this Motion.

In support thereof, Plaintiffs state as follows:

¹ Any capitalized or defined terms used in this Motion shall be a reference to that capitalized or defined term in the Stipulation of Settlement.

1. Plaintiffs and Defendants have executed a Stipulation of Settlement (“Stipulation of Settlement”), dated July 14, 2017, and filed with this Motion as Exhibit 1, which provides for the payment into a Settlement Fund by the Defendants of Eleven Million, Two Hundred Thousand Dollars and no cents (\$11,200,000). The Settlement Fund will be inclusive of all payments to Class Members as well as court-awarded fees and costs, notice and administration costs, and incentive awards to the Class Plaintiffs, as described in the Stipulation of Settlement. Payment will be made from the Settlement Fund to class members, as more fully described in the Stipulation of Settlement.

2. As described more fully in the accompanying Memorandum of Law in Support of Motion for Preliminary Approval, the settlement outlined in the Stipulation of Settlement is fair, reasonable, and adequate, as well as in the best interests of the Class. Notification to the Class of the details of the Stipulation of Settlement is therefore appropriate, as is the scheduling of a Final Approval Hearing. A Proposed Order Granting Preliminary Approval of Settlement, Directing Notice to the Class, and Scheduling Fairness Hearing (“Preliminary Approval Order”) is submitted with this Motion as Exhibit 2.

3. Plaintiffs request the appointment of Angeion Group as the Claims Administrator. The Claims Administrator’s responsibilities include: (i) establishing a post office box and tollfree telephone number for purposes of communication with Class Members; (ii) developing and maintaining a website for purposes of posting the notices and other information required under the Notice Program; (iii) accepting and maintaining all documents sent from Class Members relating to claims administration, including claim forms and exclusion requests; and (iv) administering claims submitted by Class Members. Plaintiffs submit a proposed Notice Program designed by Angeion Group, which is attached as Exhibit 3 to this Motion, and which is described more fully

in the Declaration of Steven Weisbrot, Esq. On Adequacy of Notice Program, dated July 13, 2017, and is submitted in support of this Motion for Preliminary Approval of Stipulation of Settlement.

4. Pursuant to the attached Notice Program, the Settlement Administrator will develop and maintain a Settlement Website in accordance with the Notice Program, which shall include the ability to electronically file Claim Forms online. The Settlement Administrator will also publish a Summary Publication Notice in the publications identified in the Notice Program. The Settlement Administrator will supplement the Summary Publication Notice with Internet banner ads, along with related online targeted advertisements. These ads will contain active hyperlinks to the Settlement Website. Class Counsel will also post the Class Notice in a prominent location on Class Counsels' respective websites.

6. The parties respectfully submit that the proposed Notice Program meets the requirements of Fed. R. Civ. P. 23, comports with due process, and constitutes due, adequate, and sufficient notice to all Class Members. The Court should therefore approve the form and content of the Notice Program, direct Class Counsel to implement the Notice Program, and send notice to the Class.

7. The parties also respectfully request that the Court schedule a fairness hearing and establish deadlines for: filing requests for exclusion from the Class, filing objections to the proposed Settlement, filing claims forms, and filing an application for fees and costs by Class Counsel, among other deadlines. The Parties have included a proposed schedule to provide the Court with a timeline for the various steps in the settlement approval process:

- (a) A hearing date for preliminary approval of the Stipulation of Settlement is scheduled for July 21, 2017.

- (b) The Settlement Website and the settlement notice on Class Counsels' websites, as described in the Stipulation of Settlement and the Notice Program, will go live within 15 days after entry of the Preliminary Approval Order.
- (c) The Print Publication Notice and Online Publication Notice, as described in the Stipulation of Settlement and the Notice Program, will be published within 15 days after entry of the Preliminary Approval Order (the "Notice Date").
- (d) The postmark deadline for requests for exclusion from the Stipulation of Settlement (the Opt Out Deadline), will be 60 days after the Notice Date. Requests for exclusion are to comply with the requirements set forth in Paragraph 6.4 of the Stipulation of Settlement.
- (e) The postmark deadline for Objections to the Stipulation of Settlement, (the Objection Deadline), will be 60 days after the Notice Date. Objections are to comply with the requirements set forth in Paragraph 6.6 of the Stipulation of Settlement.
- (f) The postmark deadline for Class Members to submit claims to the Settlement Administrator will be no less than 150 days after the Notice Date. Claims are to comply with the requirements set forth in the Stipulation of Settlement.
- (g) The deadline for Class Counsel to file their Motion for Attorneys' Fees, Expenses, and Class Representative Incentive Awards will be 75 days after the Notice Date.
- (f) The deadline for the parties to file a response to any written Objection will be 85 days after the Notice Date;
- (g) A hearing date regarding Final Approval of the Stipulation of Settlement at a time convenient to the Court, so long as the date is at least 90 days after the Notice Date and at least 90 days after Defendants have served notice of the Settlement Agreement on the appropriate state and federal officials as required by 28 U.S.C § 1715.

8. In order to effectuate the purposes of the Stipulation of Settlement, and pursuant to the Court's authority under the All Writs Act, Class Members who have not opted out and other persons should be preliminarily enjoined from pursuing actions that assert claims based on or relating to the claims to be released pursuant to the Stipulation of Settlement, and all persons should be enjoined from continuing a lawsuit in any jurisdiction on behalf of Class Members who have not timely excluded themselves that is based on or relating to the claims to be released pursuant to the Stipulation of Settlement.

WHEREFORE, Plaintiffs respectfully request that the Court enter an Order, substantially in the form attached as Exhibit A to the Stipulation of Settlement, (1) CERTIFYING the Class as a Settlement Class; (2) APPOINTING the Representative Plaintiffs as Class Plaintiffs and the law firms of The Driscoll Firm, P.C., 211 N. Broadway, 40th Floor, St. Louis, Missouri 63102; Heninger Garrison Davis, LLC, 2224 1st Avenue North, Birmingham, Alabama 35203 and Dowd & Dowd, P.C., 211 North Broadway, Suite 4050, St. Louis, Missouri 63102 as Class Counsel; (3) GRANTING preliminary approval to the Stipulation of Settlement pursuant to Federal Rule of Civil Procedure 23(e); (4) SCHEDULING a Final Approval Hearing and establishing all related deadlines; (5) DIRECTING that notice be provided to the Class in accordance with the Notice Program; and (6) PRELIMINARILY ENJOINING all Class Members who have not opted out from pursuing, as class members, actions based on or relating to the claims to be released by the Stipulation of Settlement; and further enjoining all persons from pursuing a lawsuit in any jurisdiction involving Class Members who have not timely excluded themselves that is based on or relating to the claims to be released by the Stipulation of Settlement.

Date: July 14, 2017

Respectfully Submitted,

THE DRISCOLL FIRM, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on July 14, 2017, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all parties.

/s/ John J. Driscoll